

a realistic model state employment policy, the study shall attempt to combine individual components into an innovative benefit package for state employees who are parents of young children. The study shall include a recommendation concerning the costs and benefits of on-site child day care located at the state capitol complex in Des Moines and other appropriate sites around the state. The Iowa merit employment department shall complete the study and report its findings and recommendations to the legislative council and the general assembly by December 1, 1985.

Sec. 35. MODEL POLICY FOR THE HANDLING OF CHILD ABUSE REPORTS.

The department of public instruction, in consultation with the department of human services, shall develop a model policy for public and nonpublic schools, as defined in section 280.2, for the handling of reports of child abuse, as defined in section 232.68, subsection 2, paragraph "a", "b", or "d", alleged to have been committed by employees or agents of public or nonpublic schools. The departments shall jointly report the model policy to the general assembly by January 1, 1986. The department of public instruction shall adopt rules pursuant to chapter 17A to implement the model policy, and the rules shall be effective by January 1, 1987. The department of public instruction shall distribute the model policy to the public and nonpublic schools.

Approved May 23, 1985

CHAPTER 174

PROTECTION OF VICTIMS AND WITNESSES

H.F. 462

AN ACT relating to the protection of victims and witnesses in judicial proceedings, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 235A.15, subsection 2, Code 1985, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. To the department of public safety for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5 and section 912.4, subsections 3, 4, and 5.

Sec. 2. NEW SECTION. 802.2 SEXUAL ABUSE OF CHILD.

An information or indictment for sexual abuse in the first, second or third degree committed on or with a child under the age of ten years shall be found within four years after its commission.

Sec. 3. Section 802.3, Code 1985, is amended to read as follows:

802.3 FELONY – AGGRAVATED OR SERIOUS MISDEMEANOR.

In all cases, except those enumerated in ~~section~~ sections 802.1 and 802.2, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

Sec. 4. NEW SECTION. 910A.1 TITLE.

This chapter shall be known and may be cited as the "Victim and Witness Protection Act."

Sec. 5. NEW SECTION. 910A.2 PROTECTION OF CHILD VICTIM'S PRIVACY.

1. Prior to an arrest or the filing of an information or indictment, whichever occurs first, against a person charged with a violation of chapter 709, section 726.2, or section 728.12, committed with or on a child, as defined in section 702.5, the identity of the child or any information reasonably likely to disclose the identity of the child shall not be released to the public by any public employee except as authorized by the court of jurisdiction.

2. In order to protect the welfare of the child, the name of the child and identifying biographical information shall not appear on the information or indictment or any other public record. Instead, a nondescriptive designation shall appear on all public records. The non-public records containing the child's name and identifying biographical information shall be kept by the court. This subsection does not apply to the release of information to an accused or accused's counsel; however, the use or release of this information by the accused or accused's counsel for purposes other than the preparation of defense constitutes contempt.

3. A person who willfully violates this section or who willfully neglects or refuses to obey a court order made pursuant to this section commits contempt.

4. A release of information in violation of this section does not bar prosecution or provide grounds for dismissal of charges.

Sec. 6. NEW SECTION. 910A.3 RECORDED EVIDENCE.

1. A court may, upon its own motion or upon motion of any party, order that the testimony of a child, as defined in section 702.5, be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court. Only the judge, parties, counsel, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child may be present in the room with the child during the child's testimony.

The court may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during the child's testimony, but does not allow the child to see or hear the party. However, if a party is so confined, the court shall take measures to insure that the party and counsel can confer during the testimony and shall inform the child that the party can see and hear the child during testimony.

2. The court may upon motion of a party order that the testimony of a child, as defined in section 702.5, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b).

3. The court may upon motion of a party admit into evidence the recorded statements of a child, as defined in section 702.5, describing sexual contact performed with or on the child, not otherwise admissible in evidence by statute or court rule if the court determines that the recorded statements substantially comport with the requirements for admission under Iowa rules of evidence 803(24) or 804(5).

Sec. 7. NEW SECTION. 910A.4 GUARDIAN AD LITEM FOR PROSECUTING WITNESSES.

A prosecuting witness who is a child, as defined in section 702.5, in a case involving a violation of chapter 709 or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness' interests represented by a guardian ad litem at all stages of the proceedings arising from such violation. The guardian ad litem may but need not be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the child and the compatibility of the child and the child's interests with the prospective guardian

ad litem. However, a person who is also a prosecuting witness in the same proceeding shall not be designated guardian ad litem. The guardian ad litem shall receive notice of and may attend all depositions, hearings and trial proceedings to support the child and advocate for the protection of the child but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses.

Sec. 8. NEW SECTION. 910A.5 CHILD VICTIM SERVICES.

1. "Victim" means a child under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony.

2. A professional licensed or certified by the state to provide immediate or short-term medical services or mental health services to a victim may provide the services without the prior consent or knowledge of the victim's parents or guardians. Such a professional shall not deny initial services to a victim due to the fact that the victim is personally unable to pay for the services at the time the services are provided.

3. Such a professional shall notify the victim if the professional is required to report an incidence of child abuse involving the victim pursuant to section 232.69.

Sec. 9. Section 912.4, subsection 1, Code 1985, is amended to read as follows:

1. To claim a reparation under the crime victim reparation program, a person shall apply in writing on a form prescribed by the commissioner and file the application with the commissioner within one hundred eighty days after the date of the crime, or of the discovery of the crime, or within one hundred twenty days after the date of death of the victim.

Sec. 10. Section 912.4, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Notwithstanding subsection 2, a victim under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for reparation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in section 232.68, subsection 6, and was reported to an employee of the department of human services and the employee verifies the report to the commissioner.

NEW SUBSECTION. 4. When immediate or short-term medical services or mental health services are provided to a victim under section 910A.5, the department of human services shall file the claim for reparation as provided in subsection 3 for the victim and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply.

NEW SUBSECTION. 5. When immediate or short-term medical services to a victim are provided pursuant to section 910A.5 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for reparation, unless the department of human services is required to file the claim under this section, and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

Sec. 11. NEW SECTION. 912.13 RULEMAKING.

The department shall adopt rules pursuant to chapter 17A to implement the procedures for reparation payments with respect to section 910A.5 and section 912.4, subsections 3, 4, and 5.

Sec. 12. Rule of criminal procedure 3, subsection 4, Iowa court rules, second edition, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. k. A person under the age of ten years shall not be required to personally appear before a grand jury to testify against another person related to the person or another person who resided with the person at the time of the action which is the subject of the grand jury's investigation, unless there exists a special order of the court finding that the interests of justice require the person's appearance and that the person will not be disproportionately traumatized by the appearance.

Sec. 13. Rule of criminal procedure 8.1, Iowa court rules, second edition, is amended by adding the following new numbered subsection:

NEW NUMBERED SUBSECTION. 3. PRIORITY ASSIGNMENT. Prosecutions for violations of sections 709.2, 709.3, 709.4 and 726.2 shall, as practicable, be given priority on a court's criminal docket.

Sec. 14. Rule of criminal procedure 12, section 2, Iowa court rules, second edition, is amended to read as follows:

2. SPECIAL CIRCUMSTANCES.

a. Whenever the interests of justice and the special circumstances of a case make necessary the taking of the testimony of a prospective witness not included in subsection 1 or 3 of this rule;* for use at trial, the court may upon motion of a party and notice to the other parties order that the testimony of the witness be taken by deposition and that any designated book, paper, document, record, recording, or other material, not privileged, be produced at the same time and place. For purposes of this subsection, special circumstances shall be deemed to exist and the court shall order that depositions be taken only upon a showing of necessity arising from either of the following:

a. (1) The information sought by way of deposition cannot adequately be obtained by a bill of particulars or voluntary statements.

b. (2) Other just cause necessitating the taking of the deposition.

b. The court may upon motion of a party and notice to the other parties order that the testimony of a victim or witness who is a child, as defined in section 702.5, Code 1985, be taken by deposition for use at trial. Only the judge, parties, counsel, persons necessary to record the deposition, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child may be present in the room with the child during the child's deposition.

The court may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during the child's deposition, but does not allow the child to see or hear the party. However, if a party is so confined, the court shall take measures to insure that the party and counsel can confer during the deposition and shall inform the child that the party can see and hear the child during deposition.

Sec. 15. Rule of criminal procedure 20, subsection 3, Iowa court rules, second edition, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Corroboration of the testimony of victims shall not be required.

Sec. 16. Rule of evidence 601, Iowa court rules, second edition, is amended by striking the rule and inserting in lieu thereof the following:

RULE 601. GENERAL RULES OF COMPETENCY.

A person of sufficient capacity to understand the obligation of an oath or affirmation is competent to be a witness except as otherwise provided by rule or statute.

However, a child, as defined in section 702.5, Code 1985, is presumed to be competent. If the child's competency is questioned the court shall determine whether the child is mentally

*According to enrolled Act

capable of understanding the nature of the questions put to the child, whether the child is able to formulate intelligent answers and communicate impressions and recollections regarding the incident about which the child is to testify, and whether the child can understand the responsibility to tell the truth. In making these determinations, the court may do any or all of the following:

1. In consultation with counsels, conduct a voir dire of the child outside the courtroom. If the judge elects to conduct a voir dire of the child outside the courtroom, the judge shall allow only the court reporter, counsels, parties and those persons necessary for the welfare of the child to be present during voir dire. The judge may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during voir dire, but does not allow the child to see or hear the party. However, if a party is so confined, the judge shall take measures to insure that the party and counsel can confer during the voir dire.

2. Review recorded or nonrecorded evidence.

3. Receive expert testimony.

4. Take any other action permitted by Iowa rules of evidence 611 or 104.

Approved May 23, 1985

CHAPTER 175
DOMESTIC ABUSE
H.F. 549

AN ACT relating to domestic abuse counseling; to the commencement of a domestic abuse action; to coordination of certain domestic abuse programs by the department of human services; to compilation and dissemination of domestic abuse information by the department of public safety; to warrantless arrests of persons committing domestic abuse, and providing penalties; and to the establishment of a court fee for the entering of a final decree of dissolution of marriage.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 22.7, subsection 2, Code 1985, is amended to read as follows:

2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a victim of sexual assault or domestic violence and the victim's sexual assault or domestic violence counselor are not subject to disclosure except as provided in section 236.17.

Sec. 2. Section 236.2, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 3. "Emergency shelter services" include, but are not limited to, secure crisis shelters or housing for victims of domestic abuse.